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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/588,405	06/06/2000	Mendy J. Mossbrook	D-43310-01	9572

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EXAMINER

WEINSTEIN, STEVEN L

ART UNIT PAPER NUMBER

1761

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No. 09/588405	Applicant(s) MOSSBROOK ET AL
Examiner S. WEINSTEIN	Group Art Unit 1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- Responsive to communication(s) filed on 10/16/02 + 2/13/03
- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- Claim(s) 1-15, 17-40 is/are pending in the application.  
Of the above claim(s) 37-40 is/are withdrawn from consideration.
- Claim(s) \_\_\_\_\_ is/are allowed.
- Claim(s) 1-15, 17-34 is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

### Application Papers

- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- All  Some\*  None of the:
  - Certified copies of the priority documents have been received.
  - Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- Interview Summary, PTO-413
- Notice of Reference(s) Cited, PTO-892
- Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Other \_\_\_\_\_

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Applicants' response filed 3/5/03, paper no. 16 to the election of species mailed 2/13/03 has been received. Applicants have elected species I without traverse. Accordingly, claims 37-40 have been withdrawn from further consideration as being drawn to non-elected species.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 and 17-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakai ('264) in view of McIntyre I, further in view of Ravijst, McIntyre II, Brock ('609), Vorrier et al (H304) and applicants' admission of the prior art, essentially for the reasons clearly detailed in the Office action mailed 6/11/02, paper no. 10.

Claim 1 now recites that the radiation curable varnish includes less than about 20% nonfunctional monomer based on the weight of the varnish. Applicants, are apparently not the inventor of the varnish. Nakai teaches it was known to subject conventional varnishes, used to protect printing on a film, to radiation to cure the varnish and reduce remaining monomer to very small amounts in order to reduce toxicity which is applicants problem and solution. Once it is known to do this, the particular varnish composition one employs is seen to have been an obvious matter of routine experimentation to determine desirable compositions, if indeed Nakai does not already teach the recited concentration range. The record does not show any comparison with

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Nakai. Applicants' specification gives no reason for the recited amount other than referring to it as "useful" formulations. Although the specification is silent in this regard, since it was known in the art to strive for complete reaction to avoid toxic unreacted monomers, providing an initial lower amount of monomer would be nothing more than common sense. That is, if unreacted monomer is a disadvantage, start out with a lesser amount of unreacted monomer. If Nakai does not teach applicants' range, then there is no showing that the differences, if any between the ranges are nothing more than routine experimentation. This is also true for applicants reaction of less than 100 KeV. Both applicants and Nakai employ electron-beam radiation to cure the varnish and eliminate almost all of the unreacted constituents. Since the goal is the same, the particular energy level, if not inherent in Nakai, would have been an obvious determination for one of ordinary skill in the art in view of the art taken as a whole. There is no showing on the record that the energy levels are different or, if different, what the results of those differences are. For example, small percentage differences, if that, would appear to be of no consequence. Note that Nakai does not state that any of his quantitative data is critical so that Nakai does not teach away from numbers that would come close to, but do not directly overlap any numbers that are recited. Finally, claim 6, now recites that the substrate film is polyvinyl alcohol. The examiner takes notice of the fact that polyvinyl alcohol is a conventional packaging film. Nakai discloses that the printed varnished and radiation cured film can be monolayer or composite sheets and mentions many conventional and diverse plastic films. To modify

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Nakai and substitute or combine polyvinyl alcohol for/with other conventional plastic films would have been obvious.

All of applicants remarks filed 10/16/2002 have been fully and carefully considered but are not found to be convincing. Some of the urgings have been addressed above in the body of the rejection. It is urged that the art taken as a whole does not teach less than 20% monofunctional monomer. This urging is directed to limitations not found in at least some of the claims. For example, independent claims 18 and 22 are silent in this regard. However, claim 1 does recite this limitation. As noted above, if indeed Nakai and the art taken as a whole teaches more than the recited amount (and this is not clear), the particular concentration one chooses to use is seen to have been an obvious routine determination. Nakai certainly does not disclose it is critical to use say 30% or more, and applicants have shown no criticality for less than about 20%. Both Nakai and applicants apply a protective varnish to protect overprinting and both Nakai and applicants are concerned with eliminating or minimizing unreacted monomer. Actually, Nakai is more concerned than applicants, since Nakai eliminates all of the unreacted reactants with the secondary UV treatment. There is nothing on the record to indicate the varnish of Nakai will not function properly or that applicants' functions better.

On page 6 of the amendment, it is urged that the references do not teach the weight of the varnish per unit area in the heat sealed region being substantially equal to that outside the heat sealed region. This recitation was addressed in the Office action mailed 6/11/02, paper no. 10. Applicants appear to be stating that it was not prior art to

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provide radiation cured overcoatings on printed film packages nor was it prior art that coatings extended into the heat seal regions of a package. Who then employed radiation-curable inks and varnishes that has had some acceptance (page 3, para. 2) and who provided an image that extended into the seal region (page 1, para. 3)? The issue is moot since Nakai and the art taken as a whole teaches applicants are not the first to provide radiation curable varnish on overprinting on film packages and to apply the varnish overprinting that will extend into a seal area would have been obvious.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication from the examiner should be directed to Steven Weinstein whose telephone number is 703-308-0650. The examiner can generally be reached on Monday-Friday 7:00am to 3:30 pm.

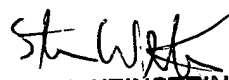
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for

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the organization where this application is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-0661.

S. Weinstein/mn  
June 18, 2003

  
STEVE WEINSTEIN  
PRIMARY EXAMINER 1761  
6/19/03